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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,597	03/12/2004	Brian Barnes	03292.101090.12	2596
66569 7590 03/17/2008 FITZPATRICK CELLA (AMEX) 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
LE, UYEN CHAU N				
ART UNIT		PAPER NUMBER		
2887				
MAIL DATE		DELIVERY MODE		
03/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/708,597

Applicant(s)

BARNES ET AL.

Examiner

Uyen-Chau N. Le

Art Unit

2887

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27, 29, 30, 33, 35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27, 29, 30, 33, 35 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 08/23/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Prelim. Amdt/Amendment

1. Receipt is acknowledged of the Amendment filed 12/10/2007. Claims 27, 29, 30, 33, 35, and 36 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 27 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Michot (US 20030054836 A1).

Re claims 27 and 33: Michot discloses a method for facilitating performance tracking comprising: creating a project task, associated with a resource, using a user interface, the project task having a predetermined completion time (i.e., when an employee arrives a work place, he/she activates the reader 31 to read his/her badge (i.e., creating a project) via a user interface (e.g., button 32) (see paragraph [0030]), the project has a predetermined completion time (i.e., the working hours of 8, 6 or 4 hours, which depends on the employee's status of fulltime, part-time, etc.)); using a transponder, presented by the resource, to communicate a transponder identifier to a radio frequency identification (RFID) reader via a radio frequency signal;

communicating the transponder identifier from the reader to a resource engine; associating the transponder identifier with a first time value and a resource identifier corresponding to the resource (i.e., when the employee enters the work site); using the transponder to communicate the transponder identifier to the reader for a second time; communicating the transponder identifier from the reader to the resource engine for a second time; associating the transponder identifier with a second time value and the resource identifier corresponding to the resource (i.e., when the employee exits the work site); computing a task work time representing a time period that the resource was in a work environment, based at least on the first time value and the second time value; and associating the resource identifier and the task work time with the project task in the resource engine (paragraphs [0003-0016]); and comparing the predetermined completion time with the task work time (i.e., the computed work time being compared to the predetermined time to determine whether that particular employee worked more or less than the predetermined time (e.g., over time or time abused). This conventional step is well-known and is commonly used in the art).

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 27, 29-30, 33 and 35-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Dwyer et al (US 5864306 A).

Re claims 27, 29-30, 33 and 35-36: Dwyer et al discloses a transponder-reader performance tracking system comprising: a user interface operable to allow a user to create a

project task, associated with a resource, the project task having a predetermined completion time (i.e., the predetermined time of a vehicle from one location/toll station to another location/toll station) (col. 4, line 54 through col. 5, line 12); a transponder, associated with the resource, operable to communicate a transponder identifier to a radio frequency identification (RFID) reader via a radio frequency signal; a resource engine operable to receive the transponder identifier communicated by the reader, the resource engine further operable to associate the transponder identifier with a first time value and a resource identifier corresponding to the resource (i.e., when the vehicle enters the toll), to associate the transponder identifier with a second time value and the resource identifier corresponding to the resource (i.e., when the vehicle exits the toll), to compute a task work time representing a time period that the resource was in a work environment, based at least on the first time value and the second time value, and to associate the resource identifier and the task work time with the project task (fig. 1; col. 3, lines 13-64); and comparing the predetermined completion time with the task work time (i.e., the computed time, which based on the first time and the second time, is compared with a predetermined time of a normal vehicle from an entrance/a first station to an exit/a second station to determine whether that particular vehicle has taken more than the predetermined time (col. 4, line 54 through col. 5, line 12).

Response to Arguments

6. Applicant's arguments filed 12/10/2007 have been fully considered but they are not persuasive.

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the time a task takes to complete is monitored) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

8. In response to the Applicant's argument with respect to "...Nothing has been found in Michot that is believed to teach, suggest or otherwise result in "creating a project task, associated with a resource, using a user interface, the project task having a predetermined completion time," much less "comparing the predetermined completion time with the task work time," as recited in Claim 27..." (p. 8, 1st paragraph), the Examiner respectfully disagrees and requests the Applicant to further review Michot wherein when an employee arrives a work place, he/she activates the reader 31 to read his/her badge (i.e., creating a project) via a user interface (e.g., button 32) (see paragraph [0030]), the project has a predetermined completion time (i.e., the working hours of 8, 6 or 4 hours, which depends on the employee's status of fulltime, part-time, etc.). When the employee leaves work, the total work time is computed based on the first time (at arrival) and the second time (at departure), the total work time is then compared with the predetermined time to determine whether that particular employee has worked more or less than the predetermined time (e.g., over time or time abused). This conventional step is well-known and is commonly used in the art. Accordingly, the claimed limitation, given the broadest reasonable interpretation, Michot meets the claimed invention (see the rejection above).

In response to the Applicant's argument with respect to "...Nothing has been found in Dwyer et al. that is believed to teach, suggest or otherwise result in the "creating a project task"

and "comparing" features discussed above with respect to Claim 27..." (p. 8, last paragraph), the Examiner respectfully disagrees and requests the Applicant to further review Dwyer et al wherein the predetermined time of a vehicle from one location/toll station to another location/toll station) (col. 4, line 54 through col. 5, line 12). The total time a vehicle is present in a particular toll zone is computed based on the first time and the second time of detection, which is then compared with a predetermined time of a normal vehicle from an entrance/a first station to an exit/a second station to determine whether that particular vehicle has taken more than the predetermined time (col. 4, line 54 through col. 5, line 12). Accordingly, the claimed limitation, given the broadest reasonable interpretation, Dwyer et al meets the claimed invention (see the rejection above).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen-Chau N. Le whose telephone number is 571-272-2397. The examiner can normally be reached on maxi-flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven S. Paik can be reached on 571-272-2404. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Uyen-Chau N. Le/
Primary Examiner, Art Unit 2887

March 3, 2008